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June 26, 2014

PSC STAFF OPINION 2014-009

Mr. Michael L. Miller
President and CEO
Nolin Rural Electric Cooperative Corporation
411 Ring Road
Elizabethtown, KY 42701-6767

RE: Nolin Rural Electric Cooperative Corporation 2014-2017 Construction Work Plan

Dear Mr. Miller:

Commission Staff acknowledges receipt of your letter dated June 6, 2014, and received by the Commission on June 13, 2014, on behalf of Nolin Rural Electric Cooperative Corporation ("Nolin"), in which you request "a Staff Opinion on [Nolin's] 2014-2017 Construction Work Plan." Although the letter did not specifically set forth the purpose of the request, Commission Staff will consider this a request as to whether any or all projects contained in Nolin's 2014-2017 Construction Work Plan ("CWP") will require a Certificate of Public Convenience and Necessity ("CPCN") or whether the projects fall within the "ordinary course of business" exemption and, therefore, do not require a CPCN.

Pursuant to the Commission's decision that each construction project contained in a CWP should be analyzed on an individual basis to determine whether that individual project is exempt from the requirement in KRS 278.020(1) to obtain a CPCN, Commission Staff has met and reviewed the projects contained in Nolin's 2014-2017 CWP. This letter represents Commission Staff's opinion, which is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution.

As with all legal opinions requesting a determination of the exemption from the requirement of a CPCN, Commission Staff's review does not consider the reasonableness or the need for each project. Therefore, because reasonableness and need are not considered herein, or in other non-rate cases, the cost of such a project can be denied recovery in a rate case if found to be unreasonable or unnecessary.

According to the 2014-2017 CWP and based upon the summary of the construction projects, Nolin proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$3,522,428; (2) Code 300 line conversion and replacement at an estimated total cost of \$3,643,333; (3) Code 600 for miscellaneous distribution equipment and pole changes at an estimated total cost of \$11,293,474; (4) Code 701 security lights at an estimated total cost of \$604,375; and (5) Code 702 Self-Healing Communication at an estimated total cost of \$687,560.

KRS 278.020(1) provides, in relevant part, as follows:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

Regarding the exception to the CPCN requirement, Administrative Regulation 807 KAR 5:001, Section 15(3) provides, in full, as follows:

Extensions in the ordinary course of business. A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

In analyzing whether the proposed projects would materially affect Nolin's financial condition, Commission Staff takes notice of Nolin's 2013 Annual Report, which shows Nolin has a net utility plant of approximately \$64,626,424 as of December 13, 2013. With the exception of the Self-Healing Communication project, each proposed construction project when reviewed individually based on its estimated cost would not materially impact Nolin's existing financial condition. Therefore, each construction project, except for the Self-Healing Communication project, is generally considered to be an extension in the ordinary course of business. Likewise, the cost estimate of each project considered separately in the 2014-2017 CWP, with the exception of the Self-Healing Communication project, will not have immediate or significant impact on Nolin's rates. Lastly, except for the Self-Healing Communication project, the individual construction projects would not result in wasteful duplication of facilities or conflict with the service of other utilities. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Nolin's 2014-2017 CWP satisfy the "ordinary course of business" exemption from CPCN requirement with the exception of the Self-Healing Communication project.

Based on the information provided in the CWP, Commission Staff is unable to conclude whether the project designated as Self-Healing Communication satisfies the "ordinary course of business" exemption. On Item 3 of the CWP, at page 40, indicates that the total overall cost of this project is approximately \$687,560. However, the amounts in the cost breakdown provided for the project do not sum up to \$687,560. The cost breakdown in the table on page 40 of the CWP also includes the cost of "Communication fiber (route to each sub in feet)" at approximately \$1,689,534. Commission Staff is unsure as to how the cost of the "Communication fiber" fits into the overall cost of the Self-Healing Communication project. Accordingly, please provide a thorough discussion of this project, including whether this would be an expansion of an existing SCADA system, and a detailed explanation of the breakdown of the estimated total cost of \$687,560 associated with this project.

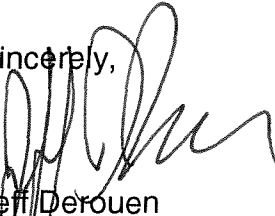
The information concerning the Self-Healing Communication project should be provided within seven days from the date of this letter. As a reminder, before any construction can begin on the Self-Healing Communication project, a CPCN must be granted or a staff opinion issued determining the project an "ordinary course of business" exemption.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the

Mr. Michael L. Miller
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Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Quang D. Nguyen at (502) 782-2586.

Sincerely,



Jeff Derouen
Executive Director

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